

JD:KMT/MKP
F.#2011R01816

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----X

UNITED STATES OF AMERICA

APPLICATION

- against -

11 CR 800 (WFK)

SEMYON BUMAGIN,

Defendant.

-----X

ROBERT L. CAPERS, United States Attorney for the Eastern District of New York, by Assistant United States Moira Kim Penza, hereby makes this application for an order pursuant to the All Writs Act, 28 U.S.C. § 1651, directing the federal Bureau of Prisons, with assistance as necessary from the United States Marshals Service (“USMS”), or any other federal agency, to use all necessary force to secure the appearance of SEMYON BUMAGIN, inmate number 18087-053, to appear in Court on May 17, 2016 for a dismissal hearing before the Honorable William F. Kuntz, II. In support of this Application, your deponent states as follows:

1. On April 23, 2013, Manny Coll, Acting Warden of FMC Butner, in Butner, North Carolina, issued a Certificate of Restoration of Competency as to the defendant SEMYON BUMAGIN (the “Coll Certificate”).

2. After the Coll Certificate was issued on April 23, 2013, the Court held four status conferences in this matter: May 29 2013, August 9, 2013, September 13, 2013, and December 30, 2013. Prior to each of these status conferences, the government requested that the United States Marshals Service (“USMS”) transport the defendant from the Metropolitan

Detention Center in Brooklyn, New York (“MDC”), where he is presently housed, to the Eastern District of New York (“EDNY”) district courthouse in Brooklyn, New York, in order to facilitate the defendant’s appearance at those status conferences.

3. The defendant was produced by the USMS for the May 29, 2013 status conference before Your Honor. USMS records indicate, however, that on August 9, 2013, September 13, 2013 and December 30, 2013, the defendant refused to board the bus that transports inmates from the MDC to the EDNY district courthouse in Brooklyn. Your Honor so indicated on the docket sheet in this matter, noting on August 9, 2013 that the defendant “refused to board the bus that transports inmates from the MDC to the district court;” on September 13, 2013 that the defendant was not present because he “did not want to board the bus”; and on December 30, 2013 that the defendant was not present “and previously waived his right to be present.”

4. The Court held a competency hearing in this matter on July 21 and 22, 2014. In light of the defendant’s prior refusals to appear, prior to the hearing, the Court entered a force order pursuant to 28 U.S.C. § 1651, dated July 17, 2014, to ensure the appearance of the defendant for both days of the hearing. As required by the Court’s order, the United States Marshals Service produced the defendant for both days of the hearing.

5. The Court held a status conference in this matter on December 2, 2014. In light of the defendant’s prior refusals to appear, prior to the hearing, the Court entered a force order pursuant to 28 U.S.C. § 1651, dated November 24, 2014, to ensure the appearance of the defendant for the status conference. As required by the Court’s order, the United States Marshals Service produced the defendant for the conference.

6. The Court held a status conference in this matter on May 6, 2015. In light of the defendant's prior refusals to appear, prior to the hearing, the Court entered a force order pursuant to 28 U.S.C. § 1651, dated May 4, 2015, to ensure the appearance of the defendant for the status conference. As required by the Court's order, the United States Marshals Service produced the defendant for the conference.

7. The Court held a continuation of the competency hearing in this matter on June 30, 2015. In light of the defendant's prior refusals to appear, prior to the hearing, the Court entered a force order pursuant to 28 U.S.C. § 1651, dated June 26, 2015, to ensure the appearance of the defendant for the hearing. As required by the Court's order, the United States Marshals Service produced the defendant for the conference.

8. The Court held a status conference in this matter on July 22, 2015. In light of the defendant's prior refusals to appear, prior to the hearing, the Court entered a force order pursuant to 28 U.S.C. § 1651, dated June 20, 2015, to ensure the appearance of the defendant for the hearing. As required by the Court's order, the United States Marshals Service produced the defendant for the conference.

9. The parties are scheduled to appear before your honor on May 19, 2016 for a dismissal hearing. The government requests that the Court enter the attached order to ensure the appearance of the defendant.

10. Defense counsel has informed the undersigned that she has no objection to the entry of such an order.

For the foregoing reasons, the United States respectfully requests that this Court order the Bureau of Prisons, with assistance as necessary from the United States Marshals Service, or any federal officer, to use all necessary force to secure the appearance of SEMYON

BUMAGIN on May 19, 2016. Your deponent declares that the foregoing is true and correct to the best of his knowledge and belief.

Dated: Brooklyn, New York
May 17, 2016

ROBERT L. CAPERS
United States Attorney
Eastern District of New York

By: /s/
Moir Kim Penza
Assistant U.S. Attorney
(718) 254-6454